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Liberalism, liberal policy and private property

Stefan Melnik

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Liberalism, liberal policy and private property*

by Stefan Melnik

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1. Problems with property

Property is a word that people often associate with wealth, something that is important for those who are better off than most. Property is often associated with capitalism – and is seen as one of the bitter fruits of exploitation. Many ask whether private individuals should have a right to own big pieces of land, mines, lakes, forests and banks. Many opinion leaders consider property to be a materialistic concern and think that we should concern ourselves more with giving and with compassion.

Politics is often driven by a negative attitude towards property. It is bad to have large disparities in wealth. There must be something wrong with the system if people are able to amass large amounts of wealth. There are certain things that properly belong to everyone or to the nation – rather than to individuals. Indeed, property is all too often an awkward obstacle in trying to implement projects that are held to be beneficial to the community or to society. Politicians more often than not have few qualms about regulating or attaching conditions to property, taxing it excessively or even expropriating it for the greater good.

There's a long tradition behind such attitudes going back to the mid-19th century. Pierre-Joseph Proudhon claimed polemically that property is theft. Karl Marx and Friedrich Engels in *The Communist Manifesto* proposed to abolish private property. The negative attitude to property is not only a tradition of the Left. It's shared with representatives of other political mainstreams. The leading US protestant politician and political economist in the latter part of the 19th century, Henry George, a critic of Marxism because of its inherent dictatorial tendencies, campaigned for making land "common property" and likened the methods through which America's "first families" obtained their wealth to those of robbers. Many Liberal politicians in the English-speaking world considered his ideas to be an inspiration. Finally, we should remember that some leading liberal thinkers were unenthusiastic about the virtues of protecting property. John Stuart Mill wanted to see limits on the amount people could inherit and own land ownership when such ownership did not lead to improvement. He represents a school of (left) liberalism that subordinates the right to property to an equitable distribution of wealth. In the latter half of the 20th century John Rawls, often considered a liberal philosopher, took this concern one step further and even rejected a distribution of wealth and income determined by the natural distribution of abilities and talents.

Of course, few were as careful as Proudhon and other political philosophers and economists in distinguishing between property and possessions. For most opinion leaders, academics and artists the two terms were interchangeable. Acquiring property was no more than an aspect of possessiveness, a disagreeable human trait. Bertrand Russell uttered the famous words that it "is preoccupation with possessions, more than anything else, that prevents us from living freely and nobly." The psycho-analyst Erich Fromm extolled the virtues of being rather than of having. John Lennon's song *Imagine* is a popular expression of the same sentiments: "Imagine no possessions [...]. Imagine all the people sharing all the world [...]." Another example of the pervasiveness of negative attitudes in popular culture is the science fiction series *Star Trek* and its many offshoots that idealise life without property: "primitive societies use money." Such ideas hold enormous sway over public opinion – which, given the lack of schooling in basic legal and economic concepts – are readily and uncritically accepted.

Such ideas had and continue to have a profound effect on the world of politics. Communist countries proceeded to "collectivise" the economy and abolish private property as we know it. There was room for limited private "possessions," no more. The effect was not limited to extreme variants of socialism. By the mid-twentieth century it was possible in some important non-communist quarters to ignore the "right to property" as a human right. Thus the original version of the *European Declaration on Human Rights* did not include a right to property. The constitutions of democracies like India and Sri Lanka did not include this right either. Massive redistribution became an acceptable objective of politics throughout the West. Expropriation of the living and the dead by the state was hardly ever considered to be theft, as long as some decorum was adhered to. The reasons had to be plausible and not too much could be taken away. Many constitutions – in Latin America, for instance, did and still do not allow the outright private ownership of natural resources.

There have been some corrections. The pros and cons of redistribution and confiscation are being discussed more seriously. Some countries like Austria and Sweden have become more "property friendly." Most significantly, the velvet revolution of 1989/90 has led to a complete reversal of former communist policies. Policy makers in Central and Eastern Europe and in East Asian countries such as China and Vietnam today acknowledge the importance of secure property rights and have legislated and encouraged privatisation accordingly.

Despite these relatively new developments, we still encounter scepticism – even among liberals. It is possible even today – in the United Kingdom – to publish a dictionary of liberal thought without reference to property.¹

Attitudes are changing – but they are only changing slowly. For many property is still anathema and, despite its advantages in the real world, is considered to appeal to base sentiments. Is this tradition a reliable one, a good one? Why has property as a concept survived the criticism? Is there something about property that we have overlooked?

On the following pages I will try to outline the conventional liberal approach to property and, more specifically, to private property and attempt to show why property is so important for society and for economic progress. First of all I will look at what property is before proceeding to describe what the advantages of a political and economic system that protects property are.

2. What is property?

Property is an all-embracing concept that doesn't simply mean land and the buildings that might be on that land – as common usage of the term might often suggest. It is anything that people can use, control or dispose of that legally belongs to them. Property always represents ownership of something specific like a house, a business, a savings account, a clock or a patent that is protected by law.

There are, of course, different types and categorisations of property. We distinguish between *immovable* property, especially land, and other forms of property termed movable or personal property. Real property relates to land and improvements (anything that has been added to the land that increases its value – buildings, for instance).

The distinction between immovable or real property on the one hand, and movable or personal property on the other, is an important one. Real property can be mortgaged and the lender, through the transaction, gains rights that can be enforced with relative ease. Land or the buildings on it cannot be moved.

¹ Duncan Brack and Ed Randall (eds), *Dictionary of Liberal Thought*, London: Politico's Publishing, 2007.

It's far more difficult to secure a loan with a movable object as collateral (such as a car or a TV set) because a debtor can easily remove or hide the object in question from the creditor.

Another distinction is between *tangible* and *intangible* property. Tangible property includes things such as real estate, cars, furniture, clothing and pets. Examples of intangible or abstract property include bank accounts, stocks, bonds and *intellectual* property (eg, patents, copyrights and trademarks). The distinction is also one of great significance because of the relative ease of securing property rights for tangible or physical objects and the frequent difficulties encountered in doing the same for some intangible objects. There is a fierce debate among liberals on whether rights to one form of intangible property, intellectual property, should be the same as those pertaining to physical property.

Finally, another significant distinction may be made: between *productive* property, the kind that can create more property, as in the case of land and capital, and personal property which is used or consumed. When the economic effects of property are discussed, we usually mean productive property.

Property, as I have already hinted above, differs from "possession", a term often and wrongly used as a synonym for property. Possession refers to the physical control of assets without a formal title to them: it is ownership not protected by law. Informal property may be understood in this sense: as a possession. The distinction between property and possession (or informal property) is extremely important. The former is formally acknowledged and protected by law and this gives the owner important economic advantages that do not apply to the latter. This is something that Hernando de Soto points out in his trailblazing book, *The Mystery of Capital*.

I wish to draw readers' attention to other important characteristics of the concept of property:

One is *exclusion*. Rights and responsibilities associated with property only have a real meaning if they can be assigned to particular individuals or entities composed of individuals to the exclusion of others. You cannot sell or lend something unless you have the right to do so and no-one else. It is impossible to determine who is responsible for the use of an object if you cannot determine ownership of that object precisely.

Another is the impossibility of drawing a line between self-ownership and ownership of material and immaterial objects. The term encompasses everything

that properly belongs to a person including life and liberty. You can only own property if you yourself are free to do so. This is also of importance in the area of intellectual property. You can only own thoughts and inventions if you are free to do so and can enforce appropriate "rights." This continuum between self and objects owned goes back to John Locke and the beginnings of systematic thought on the subject of property. John Locke argued in 1689 that "every man has a *property* in his own *person*: this no body has any right to but himself" before proceeding to elaborate as follows: "The *labour* of his body, and the work of his hands, we may say, are properly his. Whatsoever then he removes out of the state that nature hath provided, and left it in, he hath mixed his labour with, and joined to it something that is his own, and thereby makes it his *property*."²

Documentation is another significant and central aspect of property. This is highlighted by the Peruvian economist Hernando de Soto. This may be in the form of a title (in the case of real estate), registration (eg, in the case of motor vehicles), a certificate, an account or a receipt, to mention a few examples. All serve to prove ownership. Such documentation, if it is to fulfil its function of proof, must be "mind friendly" (transparent and easy to follow) and readily accessible by interested parties.

So, summing up, *property refers to the right of the owner or owners, properly documented, formally acknowledged by public authority and protected by law, both to exploit assets, whether material or immaterial, to the exclusion of everyone else and to dispose of them by sale or otherwise.* It follows that private property can be transferred only with its owner's consent and in accordance with the law.

When we talk about property rights we are referring to the following:

- a) to use and control the use of property;
- b) to benefit from the property (examples: mining rights, rental payments, interest);
- c) to transfer or sell the property; and
- d) to exclude others from the property.

2 *Two Treatises of Government*, 1689, ed. by Thomas Hollis (London: A. Millar et al., 1764), Book 2: *Of Civil-Government*, Chapter V, § 27.

3. Liberals focus on private property

Liberals emphasise that property must mean private property. Indeed, when liberals write about property, they often assume that the term property properly refers to private property and that any other kind of property, "state", "public" or "community" property is something entirely different.

It is important that property can be assigned to a real entity, not an abstract one. An individual or a company (= run by a group of individuals) are real entities. The "general public" and the "state" are abstractions or, if we are kinder, we may say that these entities are of a different nature. It is more difficult to assign meaningful rights and responsibilities pertaining to property to them.

Liberals are acutely aware of the problems that arise when ownership cannot be determined in a straightforward manner. The British economist and politician Samuel Brittan comments that when there is no ownership, as in the case of "airspace, pleasant vistas or the ocean bed," there is no market and "exploiters and destroyers can escape without paying a price." With property that is not private, the results deriving from their use are similar: "Where the community does in some sense own resources such as the national road space, it inflicts harm by not behaving like an owner and instead allowing 'free', and therefore wasteful, use of scarce assets. It is not property rights but their absence that is anti-social."

The concept of private property, in contrast, is much clearer in the sense that direct relationships exist between the owner and the object of ownership and, that the owner is directly accountable for the use of that object. The definition, demarcation, documentation and legal protection of property are all superfluous if there is no private property. They only make sense if property is owned by private entities, many of them. Without private property it would be impossible for human beings to establish and secure their rights and hence their freedom. This is an argument I will return to later.

Another important consideration for liberals is that private property, robustly enforced, has further important attributes apart from the exclusive right to the choice of use of a resource – as the economic philosopher Armen A. Alchian points out. One is the exclusive right to *the services of the resource*. "Thus, for example, the owner of an apartment with complete property rights to the apartment has the right to determine whether to rent it out and, if so, which tenant to rent to; to live in it himself; or to use it in any other peaceful way

[...]. If the owner rents out the apartment, he also has the right to all the rental income from the property [...].” Another is the right to exchange the resource at mutually agreeable terms. A “private property right includes the right to delegate, rent, or sell any portion of the rights by exchange or gift at whatever price the owner determines (provided someone is willing to pay that price). If I am not allowed to buy some rights from you and you therefore are not allowed to sell rights to me, private property rights are reduced.” They are an integral part of the right to private property and together they provide a huge number of options in the use of property. Restrictions on any of these options amount to a restriction of private property.

4. Private property as a motor of economic development

Can we measure the effects of robust protection of private property? This is an important question because there is little point in arguing for property rights if they cannot be shown to have a beneficial effect for individuals and for society as a whole. There is an enormous amount of anecdotal evidence of the benefits of private property, but we also have empirical studies that demonstrate quite clearly that if property rights are unrecognised, lacking or underdeveloped, the level of both economic freedom and economic well-being is low. Given the experience of the communist countries of Central and Eastern Europe and of many authoritarian developing countries, this is what we would expect.

In the *Index of Economic Freedom* the factor “property rights”

“measures the degree to which a country’s laws protect private property rights and the degree to which its government enforces those laws. It also assesses the likelihood that private property will be expropriated and analyzes the independence of the judiciary, the existence of corruption within the judiciary, and the ability of individuals and businesses to enforce contracts. The more certain the legal protection of property, the higher a country’s score; similarly, the greater the chances of government expropriation of property, the lower a country’s score [...]”³

3 2009 *Index of Economic Freedom*, Washington: *Heritage Foundation* & New York: *Wall Street Journal*, 2009 p. 449.

Property rights are one of 10 economic freedoms; the other nine being business freedom, trade freedom, fiscal freedom, government size, monetary freedom, investment freedom, financial freedom, freedom from corruption and labour freedom, all of which are given equal weight.

More economic freedom goes hand in hand with higher levels of sustained economic growth, with higher levels of human development and with lower unemployment, to mention only a few indicators of successful development. The level of protection of private property is at the same time a good indicator of the level of economic freedom a country's citizens enjoy. The results for 2009 show that all 15 countries that are economically most free have scores of 90 or over (out of 100) for their respective property environments. At the opposite end of the table, the 15 least free countries that were rated 30 or less, 11 of them 10 or less.⁴ This is perhaps not surprising because encroachment on other freedoms actually represents encroachment on one's property rights. Thus, for instance, an encroachment on financial freedom amounts to a restriction of property rights pertaining to relevant assets.

The *Index of Economic Freedom* notes a massive drop in scores for property rights in the time since it was inaugurated in 1995, attesting to the urgency of addressing property rights issues in developing countries in particular:

"The large drop in average scores for the economic freedom component measuring property rights and respect for the rule of law is alarming. A majority of the world's countries score below 50 on property rights. Better performers cluster around a score of 70, and the best economic performers score 90 or above on this component. The 20 countries whose scores on this component have improved over the life of the Index have seen their per capita GDPs grow almost twice as fast, at over 3.5 percent per year, as the countries whose property rights scores fell.⁵

The *Economic Freedom of the World* index⁶ produces similar results. Property rights are one of the five major areas that the index attempts to measure. Here again the scores correspond with the overall scores for economic freedom. Those countries with low scores for *legal structure and security of property rights* typically had bottom rankings for economic liberty; those with high

4 Ibid, pp. 6 & 10.

5 2009 *Index of Economic Freedom*, p. 21.

6 *Economic Freedom of the World 2008 Annual Report*, Vancouver: Fraser Institute and Economic Freedom Network, 2008. Digital version available from: www.freetheworld.com, pp. 185-6.

scores were countries that enjoy high levels of economic freedom. The authors comment that

"Freedom to exchange [...] is meaningless if individuals do not have secure rights to property, including the fruits of their labour. When individuals and businesses lack confidence that contracts will be enforced and the fruits of their productive efforts protected, their incentive to engage in productive activity is eroded. Perhaps more than any other area, this area is essential for the efficient allocation of resources. Countries with major deficiencies in this area are unlikely to prosper regardless of their policies in the other four areas."⁷

The results of 2009 *International Property Rights Index* (IPRI) track those of the more general indices of economic freedom. It compares the performance of 115 countries representing 96% of the world's GDP.

A total of ten variables are included in the index divided into the three main components:⁸

1) Legal and Political Environment (LP)

- Judicial independence
- Political stability
- Rule of law
- Control of corruption

2) Physical property rights (PPR)

- Protection of physical property rights
- Registering property
- Access to loans

3) Intellectual property rights (IPR)

- Protection of Intellectual Property Rights
- Patent Protection
- Copyright Piracy

⁷ Ibid, p. 6.

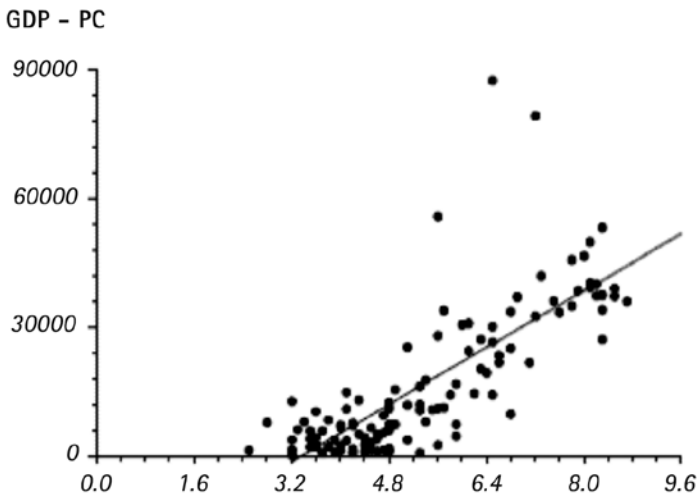
⁸ *International Property Rights Index 2009 Report*, op. cit., p. 15.

IPRI quintiles	Average GDP per capita
Top 20 %	\$ 39,991
2 nd quintile	\$ 23,982
3 rd quintile	\$ 11,748
4 th quintile	\$ 4,891
Bottom 20 %	\$ 4,341

IPRI shows that a high level of protection of (private) property is itself a good indicator of economic performance: the higher the level of protection, the greater average GDP per capita and vice versa.⁹

A look at the next table shows that those countries with the highest scores are liberal democracies – as one would expect given the posited relationship between private property, freedom and democracy – and are prosperous at the same time. At the other end of the table we have countries that face enormous difficulties not only in terms of democracy but also in terms of political stability and economic performance.

Property rights and GDP: the relationship between IPRI and GDP per capita (with fitted line)



Source: International Property Rights Index 2009 Report, op. cit., p. 29.

9 *International Property Rights Index 2009 Report, op. cit., p. 29.*

Countries by overall IPRI rankings: best and worst scorers

Rank	Country	IPRI	Rank	Country	IPRI
1	Finland	8,7	94	Nepal	3,9
2	Netherlands	8,5		Montenegro	3,9
	Denmark	8,5	96	Cameroon	3,8
4	New Zealand	8,3		Macedonia	3,8
	Sweden	8,3	98	Ethiopia	3,7
	Germany	8,3		Armenia	3,7
	Norway	8,3	100	Serbia	3,6
8	Switzerland	8,2		Nicaragua	3,6
	Australia	8,2		Bolivia	3,6
10	Austria	8,1		Moldova	3,6
	Iceland	8,1	104	Albania	3,5
	Singapore	8,1		Nigeria	3,5
13	Ireland	8,0		Paraguay	3,5
14	Canada	7,9	107	Azerbaijan	3,4
15	United Kingdom	7,8	108	Bosnia-Herzegovina	3,3
	United States	7,8	109	Chad	3,2
17	Japan	7,6		Venezuela	3,2
18	Belgium	7,5		Guyana	3,2
19	Hong Kong	7,3		Burundi	3,2
20	France	7,2		Zimbabwe	3,2
	Luxembourg	7,2	114	Angola	2,8
22	Portugal	7,1	115	Bangladesh	2,5

Source: *International Property Rights Index 2009 Report*, op. cit., p. 20.

The studies mentioned do not establish causal relationships. They highlight trends. But the way in which firm protection of property goes hand in hand with good economic performance is certainly no pure coincidence.

There are many other ways of establishing quantifiable relationships between property rights and economic objectives that support liberal arguments in favour of protecting and enhancing the protection of private property. I would just like to point to two areas in which the evidence for the beneficial effects of private property rights or the pernicious effect of lack of them is overwhelming:

An example for the beneficial effects of private property rights frequently cited and empirically measurable is that of conservation of fishing and forestry resources. Where these resources don't or no longer belong to the commons the effect is considerable. In the countries that have introduced property rights to

fish within their 200 mile zones in the form of *individual transferable quotas* (ITQs), stocks of fish have regenerated and grown. Two notable examples of such systems in operation are to be found in New Zealand and Iceland. In the vast majority of the world's seas and oceans in which property rights have not been established, however, stocks of fish are in steep decline. Similarly forest cover in many countries in which forests are privately owned has increased during the course of the last century whilst commons or state-owned forest cover, in the tropics for instance, has declined sharply.¹⁰

Hernando de Soto has attempted to assess the cost of lack of formalized property rights, the typical situation in developing countries. He calculates that the total value of real estate held but not legally owned by the poor of the Third World and former communist countries is at least \$9.3 trillion – about twice as much as the total circulating U.S. money supply or almost as much as the total value of all the companies listed on the main stock exchanges of the world's twenty most developed countries. It is more than twenty times the total direct foreign investment in all these countries in the 10 years after 1989. These are enormous assets in the context of development if they can be mobilized.

5. Practical arguments for private property and against their dismantlement

There are a host of arguments in defence of property which help to explain results like the ones presented in the previous section. Moreover, there are a number of arguments that point to the importance of private property for the kind of society liberals want and to the intrinsic value of private property for human beings without having to look at its economic benefits. The latter pertain to the kind of arguments the singer and song writer Frank Zappa would have had in mind when he said that "Communism don't work 'cause folks wanna own stuff." A politician might choose to ignore them, but does so at his/her peril.

The first of these is that **human beings do not seem to be able to make do without property**. It seems to be in the nature of humans to own goods. It is probably a myth that primitive societies do not have systems of ownership in

10 For an overview of the subject, see Johan Norberg, *Use it or lose it - The environmental case for property rights*. Paper presented at "Freedom, Commerce and Peace, A regional Agenda", Tbilisi, Georgia, 27 October 2006; accessed: 30.12.2007, available under <http://www.johannorberg.net/?page=articles&articleid=155>.

place or that they have no awareness of private ownership. An indication of this is the fact that there are terms such as "stealing", "theft" or "vandalism" in most cultures and languages, and religious or legal injunctions against them. They wouldn't exist without a concept of property and the idea that some things are rightfully owned by individuals or groups of people. Indeed, modern anthropologists generally seem to accept that **property is a universal feature of human culture.**¹¹

Private property is essential
• because it reflects human needs and is an inseparable part of human culture
• because, connected with the above, humans have a strong sense of justice that is related to possessions and the idea of rightful ownership
• for establishing realistic prices
• for preventing wasteful use of resources
• for establishing accountability
• for a free market economy (this follows from the 3 previous points)
• because of the incentives it creates for stewardship and entrepreneurship

Human beings are possessive and possessiveness is a strong trait, perhaps even an instinct, that helps to ensure survival and to secure identity. There are many indications that this is the case and to ignore the trait, as many political projects in the past have, is folly. **Stealing or expropriation of property elicits strong, radical and emotional responses** in most people and cultures. We have many examples today of people seeking justice and of governments attempting to resolve issues arising from expropriation many generations ago. Most former communist countries still face claims for restitution from the descendents of victims, although generations may have passed.

11 For an overview of some of the relevant insights and literature see Pipes, p. 77 ff. This does not mean, however, that there are no cultural differences in the treatment of property. Normal behaviour with respect to property in one society may not be normal in another. The approach to property in European countries can be very different. Some European countries impose "death duties," others do not, to take one example. Failure to declare taxable income is treated as a crime in Germany but as a civil offence in Switzerland because of completely different approaches to citizen's rights with regard to their property in German and Swiss legal traditions.

Important gains from a high level of respect and protection of property are greater cohesion and efficiency for both the political and economic systems. In an environment in which property is rarely violated, society will benefit. As David Hume pointed out, relationships between people will be characterised by mutual trust rather than by mutual suspicion. There are few reasons to resort to separation, to segregation and to the creation of ghettos, the prime purpose of which is to provide security. In economic terms one major benefit would be a reduction of direct costs for protecting property, ie, it helps one to avoid wasteful use of resources.

People expect the state to provide security and protect property. If this does not happen because of deficiencies in the law or in law enforcement citizens will look for alternatives. The creation of "gated communities" is such an alternative and an indication that the social contract based on protection of private property is breaking down and that the state is no longer meeting its obligations. Such developments lead to a dangerous erosion of citizen's confidence in and identification with the state.

There are further reasons why private property promotes social cohesion. It imports a sense of ownership not only with respect to the object owned but also with respect to the environment in which it exists. A person who owns a house in pleasant surroundings has a strong interest in maintaining these surroundings. People mow the grass in front of their house despite the fact that this grass might "belong" to the municipality. Why? Because the pleasant surroundings enhance the value of the house.

Property helps in the development of self-esteem: "I'm the owner of a house that is pleasant and in good repair. People will respect me because of the effort I invest in contributing to a valued neighbourhood."

It helps citizens to develop a sense of why crime is wrong – because crimes against property, like vandalism, are directly experienced. "The vandal has broken something that belongs to me."

This list could be extended – but the important point is that "civic spirit" is strongly influenced by property and interest in maintaining that property.

Another important gain policy makers must be aware of is the fact that property ownership not only gives people a stake in their environment – and a peaceful environment protects and preserves property – but also make them less dependent on others and, in particular, the state. In very practical terms: if a pen-

sioner owns his or her apartment, pensions do not need to cover rents. When the state of Singapore, for instance, encourages the ownership of real estate, it does so in the knowledge that more citizens owning their residences mean lower public expenditure in the field of social security. Perhaps an underlying reason for greater social stability in times of crisis in countries like the United Kingdom and Switzerland are related to high levels of ownership of real estate among their respective populations.

Another set of practical arguments pertain to the stewardship private property promotes. **Secure property rights** create economic incentives that would otherwise not exist and thereby elicit behaviour that is beneficial not only for the owners but for society at large.

One of these arguments relates to care and maintenance: **owners have an incentive to look after what they own**. If they don't care for an item they own, it will deteriorate. If a car is serviced regularly, it will stay in good condition and working order. If a house is looked after properly, it will continue to fulfil its purpose and be a good place to live in. The incentive is not only an aesthetic one: that a well-serviced car or a house well looked after are pleasant to look at, are nice to drive/use or are comfortable. The maintenance of property also serves to maintain their value on the market. A defective car or a damaged building will fetch lower prices on the market, ie, the failure to look after a piece of property leads to loss. In the case of "public" property, things are not the same. Occupants of council houses do not have the same incentive to look after the place they live in because they have little to gain or lose when they move out. Few people who damage public property without a qualm would willingly damage a car they own themselves.

Perhaps more importantly for the economy **private ownership encourages people to develop their property and use it productively**. Being able to use and dispose of it as they see fit, it is worth individuals' while to invest effort into developing property so that it not only maintains its value, as with maintenance, but that its value – or the income derived from its use – increases.

One of the mistaken assumptions of those who oppose property is that it is not beneficial for non-owners. There are very few members of society without property but, more importantly in this context, **the use of property as a rule benefits others**, the propertyless, directly. Using property by selling it or using it to generate an income will only work if there is a corresponding need to buy or rent that property. This means that the needs of both parties must meet in order to initiate and complete a transaction. The seller must be prepared to meet the

demands and preferences of the buyer; the buyer must be prepared to accept the terms of the seller. The transaction, when it occurs, is one of mutual benefit. The same argument applies to labour. Offering the service of your labour (your property in the Lockean sense of the term) is subject to the same mechanism. If you improve and focus your qualifications in accordance with the demands of potential customers, you will find employment more easily.

Another argument for private property at a practical level concerns the **care for, conservation of, as well as prudent and efficient use of resources**. If a resource promises to yield substantial or higher revenues at a future point in time, it is put aside for this purpose.

6. Private property and its importance for a liberal vision of society

Private property as a central subject of liberal concern warranting separate and thorough treatment is, arguably, a relatively recent phenomenon. Indeed, some argue that the lack of thorough treatment may have something to do with the fact that early liberals took the concept for granted and considered the advantages of private property for the political and economic order to be self-evident. One commentator, for instance, writes that

"It was probably a coincidence that the most influential treatise on economics was written at a time when private property was at the peak of its prestige. In any event, Adam Smith did not think it necessary to say much about the subject. He did refer to the 'sacred rights of private property,' however, and his contemporaries made similar comments [...]. In a treatise on economics, therefore, it was perhaps superfluous to insist that the institutions already secured by the common law were the necessary foundations of economic analysis. No one disagreed [...]"¹²

Until the middle of the nineteenth century, that is.

Later on, with the intellectual onslaught waged by socialists and others against property, liberals found themselves on the defensive. One could argue that the

12 Tom Bethell, *The Noblest Triumph – Property and Prosperity through the Ages*, New York: St Martin's Press, 1998, p. 93.

lack of thorough treatment might have contributed to the ease with which socialists were able to campaign against private property. Many contemporaries failed to appreciate the importance of property and there were few concerted and systematic rebuttals of the socialist standpoint. There was also the problem that John Locke had suggested that private ownership, which is exclusive, should be linked to there being enough and as good for others – which “is in fact a sharp-edged weapon in the hands of the enemies of property.”¹³ To add to the conundrum some liberals went as far as to endorse egalitarian ideals as I have already shown.

Two authors, in particular, have contributed to a greater understanding of the importance of private property in explaining development and economic success: the historian of Polish origin, Richard Pipes, who explained the different political and economic trajectories of England and Russia in terms of their respective treatment of property rights, and the Peruvian economist Hernando de Soto who has attempted to describe how and why private property and institutions that effectively enforce and protect property rights determine economic progress.¹⁴

De Soto claims that the poor inhabitants of Third World and former communist nations

“do have things, but they lack the process to represent their property and create capital. They have houses but not titles; crops but not deeds; businesses but not statutes of incorporation. It is the unavailability of these essential representations that explains why people [...] have not been able to produce sufficient capital to make their domestic capitalism work.

This is the mystery of capital. Solving it requires an understanding of why Westerners, by representing assets with titles, are able to see and draw out capital from them. One of the greatest challenges to the human mind is to comprehend and gain access to those things we know exist but cannot see [...].

13 See Anthony de Jasay, *Property and its Enemies*, parts 1–3. especially part 1: “*Design Faults in Locke’s Theory of Property Taint Ownership with Guilt*” <http://www.econlib.org/library/Columns/y2003/Jasayenemy.html>, Liberty Fund, Inc. 2003.

14 The titles of the books by Pipes and de Soto can be found in the list of basic literature at the end of this introductory survey.

[...] only the West has the conversion process required to transform the invisible to the visible [...]. Westerners take this mechanism so completely for granted that they have lost all awareness of its existence [...]. It is an implicit legal infrastructure hidden deep within their property systems – of which ownership is but the tip of the iceberg. The rest of the iceberg is an intricate man-made process that can process assets and labour into capital [...]. Its origins are obscure and its significance buried deep in the economic subconscious of Western capitalist nations [...].

So far, Western countries have been happy to take their systems for producing capital entirely for granted and to leave its history undocumented [...]."¹⁵

De Soto has attempted to close the purported knowledge gap by analysing and explaining how a successful system of formalised private property rights works, pinpointing the deficiencies of informal systems of property and suggesting what reforms might usefully consist of.

Despite what has been said so far, however, it is wrong to assume that property constitutes a blank spot in the liberal consciousness. Many liberal thinkers do treat property as a serious concern – even if only in passing. The intricacies might not always be clear but there is a consensus that a liberal order cannot exist without private property and that there are many reasons why this is the case. We will now look at them.

For some liberals *property is the most significant aspect of liberalism*. This is the case with the famous economist and political philosopher, Ludwig von Mises, the founder of the so-called *Austrian School of Economics*. In his words "the program of liberalism [...], if condensed into a single word, would have to read: property, that is, private ownership of the means of production [...]. All the other demands of liberalism result from his fundamental demand."¹⁶ Many liberals, classical liberals, for instance, would agree. Most economic liberals and libertarians would certainly do so.

15 Hernando de Soto, *The Mystery of Capital*, pp. 6–8.

16 *Liberalism in the Classical Tradition*, 3rd edition, San Francisco: Cobden Press and New York: The Foundation for Economic Education, Inc., 1985 (German edition, 1927), p. 19.

6.1. Property and freedom

Other liberals might not be as categorical – but they still regard property as being central to liberalism's core value and objective: freedom. Ludwig von Mises' disciple and Nobel Prize Laureate Friedrich A. von Hayek sees property as a *guarantor of freedom* (in its meaning of absence of coercion by the state):

"The recognition of private [...] property is [...] an essential condition for the prevention of coercion, though by no means the only one. We are rarely in a position to carry out a coherent plan of action unless we are certain of our exclusive control of some material objects; and where we do not control them, it is necessary that we know who does if we are to collaborate with others. The recognition of property is clearly the first step in the delimitation of the private sphere which protects us against coercion [...]."¹⁷

In an earlier work Hayek was more forthright and unequivocal:

"our generation has forgotten is that the system of private property is *the most important guarantee* [my italics, SM] of freedom, not only for those who own property, but scarcely less for those who do not."¹⁸

Hayek is not only concerned with the recognition of private property but also with its dispersion. He points to a further important link between private property and freedom: between the (wide) *dispersion* of private property, on the one hand, and freedom from dependency, another important aspect of freedom, on the other:

"The decisive condition for mutually advantageous collaboration between people, based on voluntary consent rather than coercion, is that there be many people who can serve one's needs, so that nobody has to be dependent on specific persons for the essential conditions of life or the possibility of development in some direction. It is competition made possible by the dispersion of property that deprives the individual owners of particular things of all coercive powers."¹⁹

17 *The Constitution of Liberty*, Chicago: The University of Chicago Press, 1960, all p. 140.

18 *The Road to Serfdom*, London and Henley, Routledge & Kegan Paul, 1979, p. 78.

19 *The Constitution of Liberty*, op. cit., p. 141.

6.2. Property and rights

If we consider certain political rights and civil liberties to be an expression of freedom, the right to private property is one of these expressions. But a number of liberal thinkers go a step further. They see the right to **private property as the most central right** – as a *guarantor* or even a necessary *precondition* for the enjoyment of further rights. Indeed, one might even see all rights as being property rights. This point is made by Murray Rothbard when he writes "[...] the concept of 'rights' only makes sense as property rights. For not only are there no human rights which are not also property rights, but the former rights lose their absoluteness and clarity and become fuzzy and vulnerable when property rights are not used as the standard." He goes on to say that

"there are two senses in which property rights are identical with human rights: one, that property can *only* accrue to humans, so that their rights to property are rights that belong to human beings; and two, that the person's right to his own body, his personal liberty, is a property right in his own person as well as a 'human right'. But more importantly for our discussion, human rights, when not put in terms of property rights, turn out to be vague and contradictory [...].

[For example, SM], there is no such thing as a separate 'right to free speech'; there is only a man's property right: the right to do as he wills with his own or to make voluntary agreements with other property owners.

In short, a person does not have a 'right to freedom of speech'; what he does have is the right to hire a hall and address the people who enter the premises. He does not have a 'right to freedom of the press'; what he does have is the right to write or publish a pamphlet, and to sell that pamphlet to those who are willing to buy it (or to give it away to those who are willing to accept it). Thus, what he has in each of these cases is property rights, including the right of free contract and transfer which form a part of such rights of ownership. There is no extra 'right to freedom of speech' or free press beyond the property rights that a person may have in any given case."²⁰

20 Murray N. Rothbard, *The Ethics of Liberty*, chapter 15 ("Human Rights" As Property Rights), New York & London: New York University Press, 1998, p. 113-114 (originally published by the Humanities Press, Atlantic Highlands, N.J. in 1982).

The key that "unlocks" human rights and makes them real is thus the freedom to own and exchange property or "economic freedom," a term that Rothbard considers to be a synonym for this freedom.²¹

Pipes, who bases his arguments in favour of private property on historical evidence, comments that the "right to property in and of itself does not guarantee civil rights and liberties." Notwithstanding this proviso, however, private property,

"has been the single most effective device for ensuring both, because it creates an autonomous sphere in which, by mutual consent, neither the state nor society can encroach: by drawing a line between the public and the private, it makes the owner co-sovereign, as it were. Hence, it is arguably more important than the right to vote."

He goes on to warn that the

"weakening of property rights by such devices as wealth distribution for purposes of social welfare and interference with contractual rights for the sake of „civil rights" undermines liberty in the most advanced democracies even as the peacetime accumulation of wealth and the observance of democratic procedures conveys the impression that all is well."²²

6.3. Property, society and the state

There are further contexts in which private property plays a central role in liberal thought. One of them is society and the state. The idea, a very old one, is that society and the state exist because of the need to secure possessions. **Property is seen as the basis of society and the rationale for law and government.** David Hume, a philosopher of the Scottish Enlightenment, saw property – which he defined as "stable possession derived from the rules of justice"²³ – as the *raison d'être* and glue of human society. Its cohesion is guaranteed by means of clear rules pertaining to property. In his words:

21 By Murray N. Rothbard, *For a New Liberty – The Libertarian Manifesto*, San Francisco: Fox and Wilkes, 1973, revised edition 1978, pp. 68–69.

22 *Property and Freedom*, p. 281.

23 David Hume, *A Treatise of Human Nature*, reprinted from the Original Edition in three volumes and edited, with an analytical index, by L.A. Selby-Bigge (Oxford: Clarendon Press, 1896). Part II of Book III (Of Morals), section III, Of the rules, which determine property.

"No one can doubt, that the convention for the distinction of property, and for the stability of possession, is of all circumstances the most necessary to the establishment of human society, and that after the agreement for the fixing and observing of this rule, there remains little or nothing to be done towards settling a perfect harmony and concord."²⁴

Members of society pursue happiness. Hume explains that happiness is not so much the result of how many things people possess, but "the peace and security with which they possess them [...]." People are only "fit members of society" when they "abstain from the possessions of others" and it is to restrain selfishness that "men have been obliged to [...] distinguish between their own goods and those of others [...]. It follows therefore, that [...] possession must be stable, is not applied by particular judgments, but by other general rules, which must extend to the whole society [...]."²⁵

This is in his view and that of his close friend Adam Smith the role of every system of government:

"The first and chief design of every system of government is to maintain justice: to prevent the members of society from encroaching on one another's property, or seizing what is not their own. The design here is to give each one the secure and peaceable possession of his own property."²⁶

6.4. Property and peace

It is security of property, and its enforcement through law, that provides the basis for peace and for the peaceful resolution of conflict in society. This is implicit in the role the state is assigned by early representatives of liberal thought and explicit when the 20th century liberal thinker Hayek writes that property

24 Section II, Of the origin of justice and property.

25 Ibid.

26 Adam Smith, *Lectures On Jurisprudence*, ed. by Ronald L. Meek, David Raphael and Peter G. Stein, vol. V of the Glasgow Edition of the Works and Correspondence of Adam Smith (Indianapolis: Liberty Fund, 1982), p 5; accessed from <http://oll.libertyfund.org/title/196> on 6 May 2009.

"is the only solution men have yet discovered to the problem of reconciling individual freedom with the absence of conflict. Law, liberty, and property are an inseparable trinity. There can be no law in the sense of universal rules of conduct which does not determine boundaries of the domains of freedom by laying down rules that enable each to ascertain where he is free to act."²⁷

Armen A. Alchian also emphasises this point, explaining that if people have secure property rights, there is no reason to resort to violence in order to secure one's needs and wants:

"Well-defined and well-protected property rights replace competition by violence with competition by peaceful means. The extent and degree of private property rights fundamentally affect the ways people compete for control of resources. With more complete private property rights, market exchange values become more influential. The personal status and personal attributes of people competing for a resource matter less because their influence can be offset by adjusting the price."²⁸

Basically, liberals maintain that the point of society is to provide security and enable peaceful exchange for its members. Such security extends not only to the person but to that person's property. The function of law is to ensure that property is protected. If we bear in mind the relationship between freedom and property, it ensues the function of law is to protect freedom by protecting property.

6.5. Property and rule of law

However, law is not enough. **A viable society based on secure property rights** and the peaceful exchange of property **requires** that everyone has an equal stake in that society. This can only be the case if the law treats everyone equally and there are no other means of adjudicating conflicts other than by law. There must be rule of law. The function of **rule of law**, a central principle of liberalism, is to ensure that this is done impartially – for the benefit of all and not of a powerful elite or any other minority. In this were not the case, law would be arbitrary. If law is only applied for some, others and their respective property would no longer be secure. This is what Hume had in mind when he wrote that the

27 Friedrich A. von Hayek, *Law, Legislation and Liberty* (3 Volumes), London: Routledge & Kegan Paul, 1973, Vol. 1, p. 107.

28 *Property Rights*, op. cit.

"establishment of the rule, concerning the stability of possession [...] [is] absolutely necessary to human society [...]. The convention concerning the stability of possession is entered into, in order to cut off all occasions of discord and contention; and this end would never be attained, were we allowed to apply this rule differently in every particular case [...].

The government [...] must act by general and equal laws, that are previously known to all the members and all their subjects"²⁹

Harry Burrows Acton similarly stresses the importance of equality before the law, arguably the most important element of rule of law, in the interest of all property holders – for not to uphold this principle would destroy freedom:

"A system of private property established in the interests of specific persons, and varied to suit their demands, would infringe individual freedom, since those not so benefited would be coerced in the interests of the favoured owners and hence would not be free. Governmental coercion should always be in order to uphold rules."³⁰

6.6. Property and liberal democracy

Many liberals see **private property as a necessary condition for political pluralism and liberal democracy**. Martin Wolf, a contemporary journalist and informed expert on economic affairs, writes that

"Private property is [...] a necessary condition for *political pluralism*. A political entity [...] that controls all a country's resources, through the state, is unlikely to allow any opposition access to the means of campaigning against it. Worse, if all economic decisions are political, loss of power threatens a loss of livelihood. Power becomes the only route to wealth. This is not just lethal for the economy. It is also lethal for democratic politics, which becomes a form of civil war. It is only when politics are not a matter of personal survival that a stable democracy is conceivable."³¹

29 *A Treatise of Human Nature*, op. cit., Part II of Book III (Of Morals), section III.

30 *The Morals of Markets and Related Essays*, edited by David Gordon and Jeremy Shearmur, Indianapolis: Liberty Press, 1993, p. 195.

31 Martin Wolf, *Why Globalization Works – The Case for a Global Market Economy*, New Haven: Yale University Press, 2004, p.30.

6.7. Property and economics

Finally we turn to economics. Liberals, and economic liberals in particular, have highlighted the significance of property for a market economy. More recently, a number of seminal studies, including those by Pipes and de Soto mentioned above, have identified secure **property rights as a motor of economic development**. It is this aspect of property that has led to a complete re-evaluation of property and its role in society.

According to Tibor R. Machan, when we talk about free markets, we talk about freedom of trade and this

"presupposes property rights. If no such rights exist, then there is no need for or opportunity to trade. People could just take from others what they want and would not need to wait for agreement on terms. Or, alternatively, if everyone owned everything, no one could ever trade. Everyone's permission would be required for every transaction."³²

The late Bernhard Heitger of the *Kiel Institute for World Economics* observes that "property rights are at the heart of any economic activity—nobody will become economically active if he can be cheated out of the fruits of his efforts. In addition, meaningful prices and efficient use of resources require secure property rights."³³ Today such statements seem to state the obvious but these realities were overlooked by professional economists for a long time. Heitger comments that traditional growth theory

"makes no mention of incentives and private property rights; they are simply taken as given. In reality this is not the case. Obviously, many countries of the Third World lack secure and well-established private property rights and there are many graduations between secure and insecure property rights, so that in fact there are diverging incentives to work, invest, and innovate."³⁴

32 By Tibor R. Machan, *In Defense of Property Rights and Capitalism*, in: *The Freeman, Ideas on Liberty*, vol. 43, no. 6, June 1993, <http://www.fee.org/publications/the-freeman/article.asp?aid=1848>.

33 *Cato Journal*, Vol. 23, No. 3 (Winter 2004).

34 *Ibid.*

Liberals argue that private property
<ul style="list-style-type: none"> • is the most significant aspect of liberalism
<ul style="list-style-type: none"> • is an integral part of and a guarantor of freedom
<ul style="list-style-type: none"> • is thus also a guarantor of political rights and civil liberties
<ul style="list-style-type: none"> • is the rationale for society and is the reason for government and law
<ul style="list-style-type: none"> • requires the rule of law
<ul style="list-style-type: none"> • preserves peace and fosters cooperative behaviour
<ul style="list-style-type: none"> • is a necessary condition for pluralism and liberal democracy
<ul style="list-style-type: none"> • is the foundation for development and a free market economy
<ul style="list-style-type: none"> • allows the efficient utilisation of resources, especially knowledge and is hence the key to innovation

Hernando de Soto came to the same conclusions when comparing the performance of capitalist and developing economies. He believes that there is no alternative but capitalism for successful development – it is “the only game in town”³⁵ – and that capitalism is characterised by secure and formally recognised property rights. The challenge facing mankind is to ensure that it works for the majority of mankind which, at the moment, it does not.

The *International Property Rights Index*, in the development of which Hernando de Soto is involved, outlines the six economic functions of a functioning system of property system as follows:

- [fixing] the economic potential of assets by describing their value on paper.
- [integrating] dispersed information into one consistent network of systematized representations.
- [making] people accountable, linking assets to their owners and making them easily identified and localized.

35 *The Mystery of Capital*, op. cit, p. 226.

- [making] assets fungible so they can be moved, be more accessible and be given different functions.
- [networking] people by lowering the costs of connecting assets in expanded markets.
- [protecting] transactions by securing not just the assets but also transactions.³⁶

An important economic argument used by liberals is that **private property ensures the efficient utilisation of resources, especially the resource of knowledge**. It is important to stress this point, not least because of its relevance for the current discussion of intellectual property rights. The famous liberal economist and Nobel Prize winner Milton Friedman explains why:

"the only way in which you can be free to bring your knowledge to bear in your particular way is by controlling your property. If you don't control your property, if somebody else controls it, they're going to decide what to do with it, and you have no possibility of exercising influence on it. The interesting thing is that there's a lot of knowledge in this society, but [...] that knowledge is divided. I have some knowledge; you have some knowledge; he has some knowledge. How do we bring these scattered bits of knowledge back together? And how do we make it in the self-interest of individuals to use that knowledge efficiently? The key to that is private property, because if it belongs to me, you know, there's an obvious fact. Nobody spends somebody else's money as carefully as he spends his own. Nobody uses somebody else's resources as carefully as he uses his own. So if you want efficiency and effectiveness, if you want knowledge to be properly utilized, you have to do it through the means of private property."³⁷

36 IPRI, p. 45.

37 Interview conducted with Milton Friedman on 1 October 2000 and published on *Public Broadcasting Service* website devoted to its production entitled *Commanding Heights* http://www.pbs.org/wgbh/commandingheights/shared/mini_textlo/int_miltonfriedman.html.

7. A system without private property cannot work

A central shortcoming of any alternative to private property is what Garrett Hardin termed "the tragedy of the commons" in an article published in 1968. When anything is held in common, with all or many people as "owners" and with access, there is a tendency for self-interested and rational individuals to increase exploitation of the resource for their own individual benefit. That individual receives the full benefit of the increase but, at the same time, the costs are spread among all users. In the end the commons are ruined and so are the people using it.³⁸ As Hardin pointed out, this is a trait of all "commons", and he considered public ownership to have the characteristics of commons. In a later article he pointed out that whenever "a distribution system malfunctions, we should be on the lookout for some sort of commons. Fish populations in the oceans have been decimated because people have interpreted the 'freedom of the seas' to include an unlimited right to fish them. The fish were, in effect, a commons."³⁹

The only viable alternative is the allocation of property to specific owners with exclusive rights of use. Using roads as an example he contrasted the different outcomes of private and public ownership:

"Congestion on public roads that don't charge tolls is another example of a government-created tragedy of the commons. If roads were privately owned, owners would charge tolls and people would take the toll into account in deciding whether to use them. Owners of private roads would probably also engage in what is called peak-load pricing, charging higher prices during times of peak demand and lower prices at other times. But because governments own roads that they finance with tax dollars, they normally do not charge tolls. The government makes roads into a commons. The result is congestion."⁴⁰

The former USSR presents us with a grand example of failure due to lack of private property. A well-know book published shortly after the collapse of the communist system and using material that had become available as a result

38 This idea was originally published in *Science*, December 1968: Vol. 162. no. 3859, pp. 1243-1248; <http://www.sciencemag.org/cgi/content/full/162/3859/1243>.

39 *Tragedy of the Commons*, entry in *The Concise Encyclopedia of Economics* published online by the Liberty Fund, Inc., (Library of Economics and Liberty, <http://www.econlib.org/library/Enc/TragedyoftheCommons.html>)

40 Ibid.

of *Glasnost* describes ecological and environmental destruction without parallel. This destruction was the result of public ownership that translated into a system that I would describe as one in which "no-one is responsible, no-one pays and no-one cares." There was no real accountability. The authors quote the chairman of the *State Committee for the Protection of Nature (Goskompriroda)* who in 1989 observed that the ultimate explanation for what was wrong in the USSR was that "in the United States the land has masters, whereas in our country it belongs to the state – that is, to nobody".⁴¹ Where private ownership was possible, things were different. Thus, for instance, on their private plots – just 1 to 2 percent of all land – farmers produced about two-thirds of the potatoes and eggs and about 40 percent of meat, meat and vegetables consumed in the mid-1960s.⁴²

Redistribution of property is for modern socialists – an others – an alternative to abolition. Some advantages of private property can be maintained whilst ensuring that vast disparities are eliminated. This is something that David Hume called "equalisation." He predicted that all such attempts would fail because they

"[...] are really, at bottom, impracticable; and were they not so, would be extremely pernicious to human society. Render possessions ever so equal, men's different degrees of art, care and industry will immediately break that equality. Or if you check these virtues, you reduce society to the most extreme indigence; and instead of preventing want and beggary in a few, render it unavoidable to the whole community."⁴³

Equalising property is the same as the socialist objective of equalising outcomes. To ensure that possessions are equal leads nowhere because different human beings produce different results even if the starting point is the same. The alternative – checking the virtues or, to add another factor, lessening the incentives – undermines the foundation of economic progress, entrepreneurship. Needless to say, attempts to control the distribution of property directly or indirectly has pernicious effects that rival those of the abolition of private property.

41 Cited in: *Ecocide in the USSR* by Murray Feshbach and Alfred Friendly (London: Aurum Press, 1992), p. 49.

42 Ibid., p. 50.

43 *An Enquiry into the Principles of Morals*, Section III. Of Justice, part 2. Text derived from the edition of 1777, web edition published by The University of Adelaide Library (eBooks@Adelaide); <http://etext.library.adelaide.edu.au/h/hume/david/h92pm/h92pm.zip>.

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A MARKET DRIVEN CRITIQUE ON THE ROLE OF THE INTERNATIONAL FINANCIAL INSTITUTIONS IN THE DEVELOPMENT PROCESS IN LATIN AMERICA
- [39] Liisa Heinämäki
EARLY CHILDHOOD EDUCATION IN FINLAND